its application to locations inadvertently made larger than the statute permits, it also controls the disposition of overlapping claims.[3] When one claim overlaps another, the junior location is invalid only as to that part which lies within the boundaries of the senior claim. The rule is also applicable to the case where the center line of a location does not coincide approximately with the lode.[4]

The Montana court in two early cases decided prior to the leading case of Richmond Mining Co. v. Rose, cited in the note, have announced a doctrine at variance with that laid down by the California courts.[5] The rule laid down in these Montana cases requires strict accuracy in making locations and declares void all claims including within their boundaries more surface than that allowed by Section 2320 of the Revised Statutes. In the absence of bad faith, this interpretation of the statute seems to be too narrow. The broader view is not only more conducive to a just settlement of controversies involving conflicting mining claims, but expresses the attitude of the federal government towards bona fide locators of public land for mining purposes.

H. M. A.

Mining Law—Extralateral Rights—Construction of Patent.—A case that is sui generis has just been decided by the Supreme Court of Nevada.[1] The plaintiff acquired title to the Sunnyside group of lode locations, and also to the Los Gazabo lode location, which was laid out by other locators across the Sunnyside group as illustrated in the diagram. Plaintiff applied for patent for the entire group, embracing both the Sunnysides and Los Gazabo claims, in a single application. The patent was issued describing each location by exterior boundaries, but without expressly stating that there was any conflict between any of the claims. By platting these descriptions, and also by referring to the total net area of the group as stated in the patent, it was apparent on the face of the patent that this conflict actually existed, and that the patent purported to convey these conflict areas twice, for the patent itself gave no indication as to whether the Los Gazabo or the Sunnyside locations were entitled to this conflict area. Manifestly the conflict area could not be conveyed twice by the government as a part of each conflicting claim. The court held that it was competent to go behind the patent for the purpose of determining priority as be-

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Min. Co. v. Bodie Con. Min. Co. (1881), 7 Sawyer 96, 11 Fed. 666.

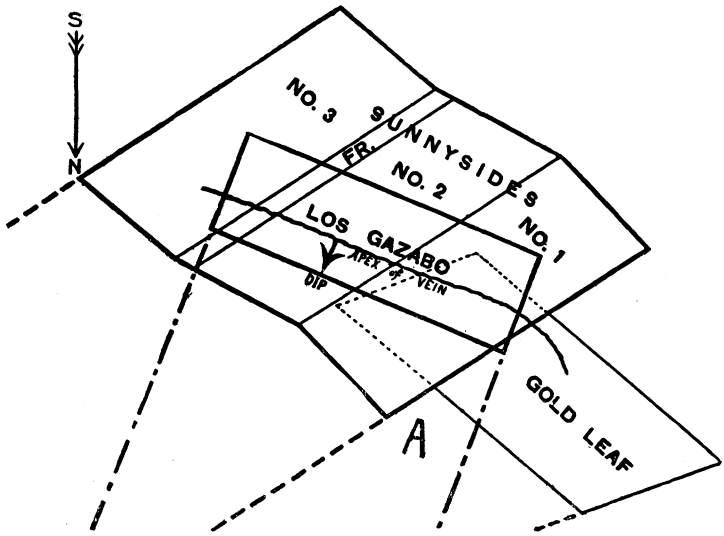
[3] Doe v. Tyler (1887), 73 Cal. 21, 14 Pac. 375; McElligott v. Krogh (1907), 151 Cal. 126, 90 Pac. 823; Richmond Min. Co. v. Rose (1884), 114 U. S. 576.

[4] Southern Cal. Ry. Co. v. O'Donnell (1906), 3 Cal. App. 382, 85 Pac. 932; Harper v. Hill (1911), 159 Cal. 250, 113 Pac. 162.

[5] Hauswirth v. Butcher (1882), 4 Mont. 299, 1 Pac. 714; Leggatt v. Stewart (1883), 5 Mont. 107, 2 Pac. 320.

[1] Round Mountain Mining Co. v. Round Mountain Sphinx Mining Co. et al. (decided Jan. 4, 1913), 129 Pac. 308 (Nev.).

tween the conflicting locations, and to show which locations by virtue of seniority were entitled to the conflict area. This was held not to be an attack on the patent, as plaintiff contended, but was merely the construing of an ambiguous patent. "So far as the surface conveyed by the group patent is concerned it makes no differernce, but when it comes to extralateral rights, as in this case, it becomes of the greatest importance which particular grant [of the conflict area] carries the surface including the apex." The diagram illustrates the importance to the owners of the Gold Leaf and other outlying claims of



a determination of whether the Los Gazabo claim is entitled to an extralateral right or whether this right belongs to the Sunnyside claims exercised between their side-end lines produced. The question of priority was resolved in favor of the Sunnyside locations, which were held to be valid existing locations when the Los Gazabo location was later placed across them, and hence that the Los Gazabo claim had no extralateral right. W. E. C.

Municipal Corporations—Franchises—Extent of City's Authority.—We have already noted [1] one effect of the amendment in 1911 of Section 19, Article XI, Constitution of California. In the case of Ex parte Russell,[2] it was held that before a gas company could extend its mains

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[1] California Law Review (Jan., 1913), Vol. 1, p. 176.

[2] Ex Parte Russell (Sept., 1912), 44 Cal. Dec. 352, 126 Pac. 875.